

REMARKS**Status of the Claims**

Claims 1-26 are cancelled without prejudice to or disclaimer of the subject matter recited therein. Claims 27-38 are pending. Claims 27-29 are amended. Support for the amendments can be found on page 8, lines 23-27. No new matter has been added.

Attorney Docket Number

Please update the Attorney Docket number to 2119-4293 (BB-1395).

Amendment to the Specification

The Examiner states that the application “lacks the necessary reference to the prior application to complete the continuity information” (Office Action, page 2) and requires insertion of a statement regarding status as a 371 application. Applicants respectfully traverse the requirement. However, in order to advance prosecution, the specification is amended as suggested by the Examiner. The traversal is based on the MPEP 1893.03(c), last paragraph:

“Note: a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim >under 35 U.S.C. 120< in the national stage to the international application is inappropriate >and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a)<. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage.

Sequence Listing

Applicants submit herewith a substitute Sequence Listing (paper copy and computer readable form). SEQ IDs 3, 4, 5, and 6 are renumbered as SEQ IDs 5, 6, 3, and 4, respectively, to correct a typographical inconsistency between the specification and the Sequence Listing. Specifically, the information in Table 1 on page 5 with respect to corn sterol delta-14 reductase protein for SEQ ID NOs. 3 and 4 is reflected in the Sequence Listing submitted herewith. Also, the soybean sterol delta-14 reductase protein listed in Table 1 on page 5 is reflected in SEQ ID NOs. 5 and 6 in the Sequence Listing submitted herewith. Similarly, the information in Table 5 on page 24 is now reflected in the Sequence Listing submitted herewith. No new matter is added by the re-numbering in the Sequence Listing.

Claim Rejections under 35 U.S.C. § 102(b)

Claims 27-38 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 97/48793. The Examiner states that “WO 9748793 A1 teaches a sterol delta-14 reductase wherein the polypeptide has an amino acid sequence of 86.36% percent similarity or 79.87% query match to SEQ ID NO: 8, and 90.37% percent similarity or 80.66% query match to SEQ ID NO: 6” (Office Action, page 3). The Examiner further states that due to “the absence of parameters for the Clustal V method of alignment, it appears that the sequence taught by WO 9748793 A1 falls within the scope of the claims, since different parameters can result in significant variation in the percent similarity and query match that is determined” (Office Action, page 3). Applicants respectfully traverse the rejection.

By way of amendment, independent claim 27 lists the parameters for the Clustal method described on page 8, lines 23-27 and page 24, lines 7-13 of the specification. The

amendment merely clarifies the parameters of the Clustal method as previously claimed.

Applicants believe that the sequence claimed in WO 97/48793 does not fall within the scope of the pending claims since SEQ ID NOs: 6 and 8 share only 80.4 and 78% sequence identity with the sequence of WO 97/48793.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 2119-4293. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 2119-4293. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: January 21, 2005

By: Michael A. Willis
Michael A. Willis
Registration No. 53,913

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

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